

TITLE 23. WATERS

DIVISION 2. DEPARTMENT OF WATER RESOURCES

CHAPTER 5.1 WATER CONSERVATION ACT OF 2009

ARTICLE 2. Agricultural Water Measurement

SUPPLEMENT TO THE INITIAL STATEMENT OF REASONS

Certificate of Compliance Rulemaking Related to Emergency Rulemaking File #2011-0624-01E

The purpose of the regulation is to provide a range of water measurement options that agricultural water suppliers may use or implement to comply with the measurement requirement in paragraph (1) of subdivision (b) of Water Code Section 10608.48. Therefore, this regulation is necessary in order to comply with the measurement requirement in paragraph (1) of subdivision (b) of Water Code Section 10608.48 and to give agricultural water suppliers the necessary options for them to comply with both the statute and this regulation.

Section 597.1 Applicability

This section provides the broad criteria for applicability of the proposed water measurement regulation. The section is necessary because it defines the broad criteria for applicability of this regulation and identifies those entities that are required to comply and those that are excluded. This section was necessary to further clarify who this regulation does and does not affect based on criteria mentioned in the SB X7-7 legislation, specific entities and categories the suppliers are enumerated with the respective applicability conditions. Identifies the acreage threshold for applicability of the proposed regulation.

- a) Clarifies applicability to wholesale agricultural water suppliers that may deliver or supply water to other agricultural retail water agencies, through their facilities and do not have control of the delivery of water to their retail customers. This clarification is necessary because the Statute did not address this circumstance of wholesale water suppliers where an agency is simply transporting water to another supplier and not delivering it to the retail supplier's customers.
- b) Clarifies applicability to suppliers providing water to wildlife refuges by determining that they pertain to this Article and to the acreage provisions in Water Code Section 10608.12(a). Many stakeholders were uncertain about the applicability of wildlife refuges and whether or not they are considered a customer of a water agency as defined in the Statute and regulation. This statement clarifies the definition of customer by including wildlife refuges as a type of customer.
- c) Excludes agricultural water suppliers providing water to less than 10,000 irrigated acres.

- d) Excludes agricultural water suppliers providing water to 10,000 or more irrigated acres but less than 25,000 irrigated acres, unless funding is provided.
- e) Clarifies applicability to canal authorities and entities that only deliver water through federal facilities to other water agencies that then deliver the water to customers. This clarification is necessary because the Statute did not address this circumstance where an agency is simply transporting water and not delivering it to the retail supplier's customers.
- f) Excludes suppliers that are part of the Quantification Settlement Agreement.
- g) Excludes the Department of Water Resources.

Section 597.3 Range of Options for Agricultural Water Measurement

This section is necessary because it provides a range of options for agricultural water measurement as required by Water Code §10608.48(i)(1); description of these measurement options is necessary for the purpose of providing guidance and assistance to agricultural water suppliers with a way of complying with the measurement requirement and reporting their water deliveries and to adopt a volumetric water pricing structure. Water measurement device accuracy standards are set for the different identified range of options because of differing circumstances where some devices are laboratory tested and certified for accuracy while others were built on site and tested after installation. Additionally there are already existing devices. All of these circumstances require different accuracy ranges because these various conditions would produce different accuracy results. Furthermore, the range of accuracy options was included to account for the variability of new and existing devices.

Measurement options in Section 597.3(b)(1)(B) were necessary in order to take into consideration the preexisting variety of field and water flow conditions while accounting for existing infrastructure and technologies. This section also specifies certain conditions under which these options can be used and the associated type of documentation required from the agricultural water suppliers should they choose to use this option. These conditions and options are required because there are circumstances where the type of crop grown requires varying water application rates at different times of the year and existing technology does not allow for a device to accurately measure the variable flows and a more accurate measurement can be achieved at this upstream point.

These options, furthermore, were chosen as opposed to others such as listing specific device type, because they are consistent with other current measurement techniques and do not favor one technology or brand of device.

The statute requires sufficient accuracy for water measurement. DWR's proposed accuracy standards range from +/-% 5 to +/-12%. These accuracy standards are found in line with current industry standards as reported in water measurement device manufacturers' specifications. Also, the federal 2011 criteria require federal water suppliers in California to measure water with accuracy of +/-6%. Therefore, the inclusion of the accuracy standards as specified in the regulation is needed to provide for measurement of water deliveries with sufficient accuracy.

Furthermore, accuracies proposed in the regulation are comparable with current industry standards as well as existing accuracy standards used by other water suppliers in California.

The accuracy standards applicable to individual water measurement devices, as compared to aggregated accuracy of all devices, are needed to make sure that all water supplier customers water measurement devices individually are meeting the standards. Supplier's customers would be billed for volumes of water delivered to them based on readings of their respective individual measurement devices. Therefore, it is necessary for each individual measurement device to meet the accuracy standards in order to have equitable billing of customers.

The cost of measurement devices is comparable to those of devices already used by federal water suppliers.

The inclusion of section 597.3(b) allows water suppliers who are unable to measure water at the individual customers' delivery points with the specified accuracies to install a device that measures water upstream of multiple customers. This provision is included to allow flexibility for unusual legal and field physical circumstances while meeting the requirements of the law. This provision is necessary to ensure all water suppliers are able to measure water but provide flexibility for specific conditions. There are other conditions that must be met in order to qualify for this option.

The statute, furthermore, specifically separates the water measurement and water pricing from the other 14 efficient water management practices (EWMPs). The later non critical EWMPs are required to be implemented only if technically feasible and locally cost effective. Therefore, DWR cannot make the water measurement subject to local cost effectiveness. Although the range of options allows the water supplier to select the least cost water measurement device as long as accuracy standards are met.

Section 597.4 Accuracy Certification, Records Retention, Device Performance, and Reporting

(a) Field testing and field inspection are needed to ensure that the devices that are installed meet the accuracy standards of the regulation. Field inspection of devices and approval by an engineer would ensure that the requirements are met. Another method for certifying device accuracy is the alternative of field testing a certain number of devices, but it may cost more and could be technically challenging, therefore the option of field inspection is also provided in the regulation.

(b) This section is included to provide clarity and establish consistency with the methods used for certifying the device's accuracy. The methods selected are consistent with best professional standards and practices are in many cases already utilized by the industry.

(c) This section is necessary for providing for the availability of water measurement information to the interested parties. The methods selected were consistent with best professional standards and practices are in many cases already utilized by the industry.

(d) This section is necessary to provide consistency in maintaining and operating the water measurement devices and to be able to achieve and maintain the accuracy standards. The methods selected were consistent with best professional standards and practices are in many cases already utilized by the industry.

(e) This section is needed to provide consistency in reporting the water measurement data to the state and ensures that the data adheres to the quality protocols specified in the regulation. The methods selected were consistent with best professional standards and practices are in many cases already utilized by the industry.